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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,878	09/30/2003	William M. Smith	74088-002	6791
29493	7590	06/23/2006	EXAMINER	
HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			LOWE, MICHAEL S	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,878

Applicant(s)

SMITH, WILLIAM M.

Examiner

M. Scott Lowe

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 16-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/12/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Applicant's election with traverse of the election of species requirement in the reply filed on 4/12/06 is acknowledged. The traversal is on the ground(s) that the examiner did not designate a distinct class and subclass for each species. This is not found persuasive because it is not required for the examiner to designate a distinct class and subclass for each species in an election of species requirement, only the applicable figures.

The requirement is still deemed proper and is therefore made FINAL.

Claims 16-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/12/06.

Specification

The disclosure is objected to because of the following informalities:

Page 11 states on lines 10 and 23 that item 438 is a wheel support arm while line 21 states item 438 is a mounting brackets.

Page 13 states on line 22 that item 836 is a first momentary switch and on line 23 that it is a second momentary switch.

Page 14, line 1 states item 32 is an LED but it appears from line 2 that applicant meant 832 not 32.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said frame" in line 2. There is insufficient antecedent basis for this limitation in the claim. For sake of examination it is assumed applicant meant "said bed".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,9,10,12,13,14 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (US 5,161,814).

Re claim 1, Walker teaches an inclining trailer 17, comprising
a bed 21;
a hitch 25 attached to said bed;

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at least one wheel support arm 82 having a first end in pivotal engagement with said bed and a second end operatively engaged with an axle (not numbered) for a wheel 27; said at least one support arm 82 having a first position relative to said bed wherein said bed is substantially level and said at least one support arm having at least one other position wherein said bed is inclined; and an actuator 80, said actuator being engaged with said at least one support arm 82 and with said bed 21 such that said actuator mediates travel of said support arm 82 between said first position and said at least one other position.

Re claims 2,14, Walker teaches said hitch 25 is a tongue-type hitch.

Re claims 9,13, Walker teaches an inclining trailer having a front and a rear, comprising:

a frame 21 having a first side member, a second side member, and at least one cross-member interconnecting said first side member and said second side member;

a hitch 25 attached to said frame at the front;

a rotating member 33,35 pivotally connected to said frame 21 between the front and the rear,

said rotating member 33,35 having a first end, and a second end;

a first wheel support arm 82 operatively connected to said first end of said rotating member, said first wheel support arm having a proximate end and a distal end;

a second wheel support arm 82 (other side) operatively connected to said second end of said rotating member, said second wheel support arm having a proximate end and a distal end;

an axle (not numbered) located at said distal end of each wheel support arm;
a wheel 27 operatively connected to each axle;
an actuator 80 for rotating said rotating member, said actuator operatively engaged with
at least one of said wheel support arms and with said frame, whereby said frame is
correspondingly inclined or declined; and
at least one shoe 47 for ground engagement located vertically below said frame and
longitudinally between said wheels and the front.

Re claim 10, Walker teaches said at least one shoe 47 is operatively connected
to said frame.

Re claim 12, Walker teaches said at least one shoe is operatively connected to
said rotating member.

Claims 1,2,4,5,7,9-14 are rejected under 35 U.S.C. 102(b) as being anticipated
by Williamson (US 3,012,682).

Re claim 1, Williamson teaches an inclining trailer 10, comprising
a bed 12;
a hitch 108 attached to said bed;
at least one wheel support arm (22,23,24,26,etc.) having a first end in pivotal
engagement with said bed and a second end operatively engaged with an axle 28 for a
wheel 30;

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said at least one support arm having a first position relative to said bed wherein said bed is substantially level and said at least one support arm having at least one other position wherein said bed is inclined; and
an actuator 40, said actuator being engaged with said at least one support arm and with said bed 21 such that said actuator mediates travel of said support arm between said first position and said at least one other position.

Re claims 2,14, Williamson teaches said hitch 108 is a tongue-type hitch.

Re claim 4, Williamson teaches a reverse beaver tail bed portion (not numbered).

Re claims 5,7 Williamson teaches the actuator 40 may be pneumatic or hydraulic (column 2, line 60).

Re claims 9,13, Williamson teaches an inclining trailer 10 having a front and a rear, comprising:

a frame 12 having a first side member, a second side member, and at least one cross-member interconnecting said first side member and said second side member;

a hitch 108 attached to said frame at the front;

a rotating member 16,18 pivotally connected to said frame 12 between the front and the rear,

said rotating member 16,18 having a first end, and a second end;

a first wheel support arm (22,23,24,26,etc.) operatively connected to said first end of said rotating member, said first wheel support arm having a proximate end and a distal end;

a second wheel support arm (22,23,24,26,etc.) (other side) operatively connected to said second end of said rotating member, said second wheel support arm having a proximate end and a distal end;

an axle 28 located at said distal end of each wheel support arm;

a wheel 30 operatively connected to each axle;

an actuator 40 for rotating said rotating member, said actuator operatively engaged with at least one of said wheel support arms and with said frame, whereby said frame is correspondingly inclined or declined; and

at least one shoe 22 (figure 3) for ground engagement located vertically below said frame 12 and longitudinally between said wheels (rear wheels) and the front.

Re claim 10, Williamson teaches said at least one shoe 22 is operatively connected to said frame.

Re claim 11, Williamson teaches said at least one shoe 22 is integral with at least one of said first and second wheel support arms.

Re claim 12, Williamson teaches said at least one shoe 22 is operatively connected to said rotating member 16,18.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,4,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 5,161,814) in view of Cash (US 5,967,733).

Re claims 3,15 Walker has a hitch 25 but is silent regarding a gooseneck-type hitch. Cash teaches that gooseneck-type hitches are well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Walker by Cash to have a gooseneck-type hitch in order to allow the trailer to be pulled by vehicles requiring a gooseneck-type hitch connection.

Re claim 4, Walker is silent regarding the bed having a reverse beaver tail portion. Cash teaches that having a reverse beaver tail bed portion is well known (see drawings). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Walker by Cash to have a reverse beaver tail bed portion to allow the bed to tilt farther and to have a better support surface on the ground when the bed is tilted.

Claims 3,15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682) in view of Cash (US 5,967,733).

Re claims 3,15 Williamson has a hitch 108 but is silent regarding a gooseneck-type hitch. Cash teaches that gooseneck-type hitches are well known. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williamson by Cash to have a gooseneck-type hitch in order to allow the trailer to be pulled by vehicles requiring a gooseneck-type hitch connection.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 5,161,814).

Re claims 5-7, Walker teaches actuator 80 but does not specify the type of actuator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Walker to have the actuator be any equivalent well known type of actuator such as pneumatic, hydraulic or a linear drive motor, in order to use a ease maintenance and supply concerns.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682).

Re claim 6, Williamson teaches actuator 40 but is silent regarding a linear drive motor actuator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Williamson to have the actuator be any equivalent well known type of actuator such as pneumatic, hydraulic or a linear drive motor, in order to use a ease maintenance and supply concerns.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US 5,161,814) in view of Collins (US 6,135,700).

Re claim 8, Walker does not teach a hydraulic pump. Collins teaches a hydraulic pump 90 operatively mounted on the frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified to have

modified Walker by Collins to have a hydraulic pump operatively mounted on the frame in order to provide a nearby hydraulic power source for the actuator.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williamson (US 3,012,682) in view of Collins (US 6,135,700).

Re claim 8, Williamson does not teach a hydraulic pump. Collins teaches a hydraulic pump 90 operatively mounted on the frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified to have modified Williamson by Collins to have a hydraulic pump operatively mounted on the frame in order to provide a nearby hydraulic power source for the actuator.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is (571) 272-6929. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

msl


JAMES KEENAN
PRIMARY EXAMINER